IN THE HIGH COURT OF BOMABY AT GOA

CRIMINAL REVISION APPLICATION NO. 14/2005
AND
CRIMINAL MISC. APPLICATION NO.156/2005.

Mr. Laxman Datta Chunekar,
major of age, resident of
H. No.386, Malagwada,
Kumbarjua, Goa,
presently lodged in
Sub Jail, Sada, Vasco da Goa,
Goa. .... Petitioner.

Versus

1. The Saraswat Coop. Bank Ltd.,
through the Branch Manager,
Authorised Officer,
Near Hotel Menino,
Ponda, Goa.

2. S T A T E
(Through Public Prosecutor),
Panaji, Goa. .... Respondents.

Shri R.V. Kamat, Advocate for the Petitioner.

Shri U.R. Timble with Shri M.S. Joshi, Advocates for the Respondent No.1.

CORAM: V. M. KANADE, J.

DATE: 10TH AUGUST, 2005.

ORAL ORDER:

The petitioner is challenging the Judgment and Order passed by the Sessions Court by the Ist Additional Sessions Judge, Panaji in

Criminal Appeal No. 10/2004 by which order he had confirmed the Judgment and Order passed by the Judicial Magistrate at Ponda in Criminal Case No. 207/0A/02/C on 18.12.2003.

2. The Trial Court convicted the accused for an offence punishable under Section 138 of N.I. Act and sentenced him to undergo simple imprisonment for a period of one month. The accused was also directed to pay a sum of Rs.8,000/ as compensation and in default to undergo simple imprisonment for a period of 15 days. This order was confirmed by the Sessions Court. The petitioner is challenging the said orders passed by the lower Courts in this revision application.

3. The learned counsel appearing on behalf of the petitioner and the learned counsel appearing on behalf of the respondent, submit that the parties have now amicably settled the matter and the respondent No.1 Saraswat Coop. Bank has received an amount of Rs.8000/ from the accused. The Manager of the respondent Bank Raguvir Govekar is present in Court and the learned counsel appearing on behalf of respondent No.1, on instructions from the said Manager, states that this amount has been received by the Bank towards full and final settlement of their entire claim and have no objection if the said Judgment and Order passed by the trial Court and confirmed by the Sessions Court is quashed and set aside.

4. The offence under Section 138 of N.I. Act is a compoundable offence and the parties have right to compound the offence. In view of the statement made by the learned counsel on behalf of the respondent, in my view this is a fit case for setting aside the Judgment and Order passed by both the lower Courts. The conviction and sentence awarded by the Judicial Magistrate F.C. is quashed and set aside. The Judgment and Order passed by the Addl. Sessions Judge in Criminal Appeal No. 10/2004 is also set aside.

5. Criminal Revision Application No.14/2005 is allowed in the above terms.

6. The learned counsel appearing on behalf of the petitioner submits that the petitioner is in jail and has already undergone nine days of sentence. The petitioner is therefore directed to be released forthwith.

In view of this Order, it is not necessary to pass any separate Order in Criminal Misc. Application No.156/2005 which is also disposed of.

Parties to act on authenticated copy.

V. M. KANADE, J.

sl.